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cont

126. The isolated pathogenic *Leptospira* pathogen of claim 124 in combination with a pharmaceutically-acceptable carrier or diluent.

REMARKS

Claim 21 has been amended to correct an informality, and Claims 124-126 have been added. Support for added Claims 124-125 can be found in the Specification page 35, lines 10-15. Support for new claim 126 can be found in the Specification pages 23-25. No new matter has been added herewith.

Response to Notice to Comply

In Response to the Notice to Comply received along with the Communication from the Examiner, Applicants have enclosed a computer readable form (CRF) of the Sequence Listing. In accordance with 37 C.F.R. § 1.821(f) and (g), the undersigned hereby verifies that the content of the paper copy of the Sequence Listing included in the specification of the present application, and of the CRF submitted herewith, are identical. Thus, no new matter is included in the CRF.

Election

The communication mailed July 25, 2000 (Paper No. 7) set forth a Restriction Requirement, requiring an election among seven different inventions defined by:

- Group I: Claims 1-20 and 75;
- Group II: Claims 21-31 and 76;
- Group III: Claims 32-33;
- Group IV: Claims 34-41, and 50-55;
- Group V: Claims 42-49, 56-57, and 77-88;
- Group VI: Claims 58-63; and
- Group VII, Claims 64-74, and 87-123.

In response to the Restriction Requirement, Applicants elect Group I, Claims 1-20 and 75, drawn to an isolated *Leptospira* bacterium. The election is made with traverse.

Rejoinder of Groups II and IV

Applicants note that upon allowance of Claim 1, rejoinder of the Group II and IV Claims will be appropriate. The claims of these groups define subject matter which extends to or includes the isolated pathogenic *Leptospira* of claim I, included in elected Group I. Accordingly, Applicant respectfully requests that these claims be rejoined upon allowance of Claim 1.

Traverse of the Restriction Requirement

In addition, because of the arguments presented below, the inventions defined by all of the claims on file constitute a special technical feature under PCT Rule 13.1.

In the Restriction Requirement, the Examiner believes that restriction of the subject matter under examination in the instant application is required under 35 U.S.C. 121 and 372, on the basis that the application as filed defines seven different inventions which are not so linked as to define a single general inventive concept under PCT Rule 13.1.

The separate inventions identified by the Examiner are as follows:

- Group I:** Claims 1-20 and 75, defining an isolated *Leptospira* bacterium;
- Group II:** Claims 21-31 and 76, defining a method of isolation and purification;
- Group III:** Claims 32-33, defining an antibody molecule;
- Group IV:** Claims 34-41, and 50-55, defining a method of detection and hybridization;
- Group V:** Claims 42-49, 56-57 and 77-88, defining a method of detection and a kit;
- Group VI:** Claims 58-63, defining a composition capable of conferring immunity;
and
- Group VII:** Claims 64-74 and 87-123, defining a method of treating an infection in humans.

The Examiner states that the inventions identified in Groups I-VII *supra* do not relate to a single general inventive concept under PCT Rule 13.1, because the invention of each group has different modes of operation, functions, and effects not capable of being used together.

Applicant respectfully traverses the Examiner's allegation that the instant application defines seven different inventions. The expression "special technical feature" is defined in PCT Rule 13.2 to mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. The subject matter of each of claims 1-126 now pending in this application incorporates the special technical feature of an isolated pathogenic *Leptospira* bacterium as defined by claim 1. In fact, each of claims 2-126 directly or indirectly recites the isolated pathogenic *Leptospira* bacterium as defined by claim 1, and, as a consequence, requires said bacterium for its performance. Accordingly, in contrast to the Examiner's allegation that each of the inventions are not capable of use together, said inventions are united by the isolated pathogenic *Leptospira* bacterium as defined by claim 1.

Moreover, Applicant respectfully directs the Examiner's attention to the fact that neither the International Searching Authority, nor the international Preliminary Examining Authority, found lack of unity of invention in respect of similar subject matter claimed in the corresponding International application. In support of the compliance of the claimed subject matter with PCT Rule 13.1, Applicant submits herewith, as Exhibit A, a copy of the International Search Report issued in respect of International Application No. PCT/AU98/00145, from which the instant application is derived, wherein no indication is given that unity of invention under PCT Rule 13.1 is lacking.

For the reasons stated herein, Applicant respectfully requests the Examiner to reconsider that the claims on file define seven different inventions, and to withdraw the Restriction Requirement. A rejoinder the inventions of Groups I, II, and VI, at least, and the issuance of a modified restriction is respectfully requested. Favorable reconsideration of the Office Action is respectfully requested.

In compliance with 37 C.F.R. 1.499, Applicant elects the claims of Group I (i.e. claims 1-20, 75, and 124-126) in response to the Examiner's Restriction Requirement. In this respect, Applicant respectfully requests the Examiner to include new claims 124-126 in the Group I claims, by virtue of their dependence upon claim 1, and because new claims 124-125 essentially define the same composition of matter as claim 1, albeit in an attenuated form, and, because new claim 126 also includes the same composition of matter as claim 1. Favorable consideration is respectfully requested.

Conclusion

As a result of the amendments made herein, Claims 1-20, 75, and 124-126 are presented as readable on the elected species. Even if Applicants' traversal of the restriction Requirement is not sustained, rejoinder of the Groups II and IV claims, i.e. Claims 21-31, 34-41, 50-55 and 76, is appropriate upon the allowance of Claim 1. Should any clarification be needed, the Examiner is respectfully invited to contact the undersigned attorney at the telephone number appearing below.

Please charge any fees, including any fees for extensions of time, to Deposit Account No. 11-1410. A duplicate copy of this sheet is enclosed for this purpose.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 24 Aug. 2000

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